

IOWA RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Chapter 4, “Contested Cases and Other Proceedings,” Chapter 5, “Track and Excursion Boat Licensees’ Responsibilities,” Chapter 6, “Occupational and Vendor Licensing,” Chapter 10 “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12 “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 provides current website address for the Commission.

Item 2 clarifies this applies to all licensed facilities.

Item 3 removes this requirement for dog tracks.

Item 4 allows for all types of checks.

Item 5 allows for mobile pari-mutuel wagering outside designated wagering area.

Item 6 provides current website address for the Commission.

Item 7 adds a specific circumstance that is grounds for license sanction.

Item 8 excludes spouses from the partnership requirements.

Item 9 removes the abuse of discretion standard to make consistent with previous rule change.

Item 10 changes required payments by the horsemen’s bookkeeper.

Item 11 adds a requirement to identify horses that are racing that day.

Item 12 clarifies which horses are eligible to compete for breeders awards.

Item 13 changes number and types of claims allowed.

Item 14 removes unsound as a condition.

Item 15 adds the definition of “independent financial institution” and changes the definition of “reserve”.

Item 16 adds pre-verified card requirements.

Item 17 makes changes to the wide area progressive system provider requirements.

Item 18 requires changes to internal controls for pre-verified cards.

Any person may make written suggestions or comments on the proposed amendments on or before November 29, 2016. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street Suite 100, Des Moines, Iowa, 50309, or irgc@iowa.gov. Persons who wish to convey their views verbally should contact the Commission office at (515) 281-7352.

A public hearing will be held on November 29, 2016, at 9 am in the office of the Racing and Gaming Commission, 1300 Des Moines St, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either verbally or in writing.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend subrule **1.2(2)**, paragraph “a” as follows:

a. The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission’s Web site at ~~www.iowa.gov/irgc/~~ <https://irgc.iowa.gov/> at least five days in advance of the meeting or will be ~~mailed~~ sent to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting

ITEM 2. Amend subrule **4.5(8)** as follows:

4.5(8) Persons who are not holders of a license or occupational license and who have allegedly violated commission rules or statute, or whose presence at a ~~track or on a riverboat~~ licensed facility is allegedly undesirable, are subject to the authority of the board and to any penalties, as set forth in rule 491—4.7(99D,99F).

ITEM 3. Amend subrule **5.4(4)**, paragraph “a,” as follows:

a. During all hours of operation, each licensee shall equip and maintain adequate first-aid facilities and have, at a minimum, one employee trained in CPR, first aid, and the use of the automated external defibrillator (AED). During live racing at horse racetracks and while excursion gambling boats are cruising, the licensee shall have present either a physician, a physician assistant, a registered nurse, a licensed practical nurse, a paramedic, or an emergency medical technician.

ITEM 4. Amend subrule **5.4(9)** as follows:

5.4(9) Checks. ~~The acceptance of personal checks shall be allowed; however, “counter” checks shall not be allowed.~~ All checks accepted must be deposited in a bank by the close of the banking day following acceptance.

ITEM 5. Amend subrule **5.5(12)** as follows:

5.5(12) Mobile pari-mutuel wagering. Pari-mutuel wagering shall be allowed outside the designated wagering area using mobile pari-mutuel tellers with portable wagering devices and by any other method approved in writing by the commission.

ITEM 6. Amend subrule **6.4(2)** as follows:

6.4(2) Knowledge of rules. By acceptance of a license from the commission, the licensee agrees to follow and comply with the rules of the commission and Iowa statutes pertaining to racing and gaming, to report immediately to the commission representative any known irregularities or wrongdoing involving racing or gaming and to cooperate in subsequent investigations. Commission rules are available on the commission's Web site at www.iowa.gov/irgc/ <https://irgc.iowa.gov/>.

ITEM 7. Amend subrule **6.5(3)** by adding a **new** paragraph "**x**," as follows:

x. Communicating with or contacting a person that is voluntarily excluded pursuant to 99D or 99F for gaming related activities.

ITEM 8. Amend subrule **6.20(1)** as follows:

6.20(1) A partnership is defined as a formal or informal arrangement between two or more persons to own a racing animal. All partnerships, excluding ~~husband and wife~~ spouses, must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of 491—6.17(99D).

ITEM 9. Amend subrule **10.4(4)**, paragraph "**d**," sub paragraph **(3)**, item "**1**" as follows:

1. Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and place any horse found to be disqualified behind others in the race with which it interfered or may place the offending horse last in the race. The stewards at their discretion may determine if there was sufficient interference or intimidation to affect the outcome of the race and take the appropriate actions thereafter. ~~Abuse of discretion shall be the standard of review used in any appeal involving a steward's disqualification decision.~~

ITEM 10. Amend subrule **10.4(15)**, paragraph "**d**," sub paragraph **(3)** as follows:

(3) The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, and jockey fees, ~~purchase money in claiming races, and all applicable taxes,~~ upon request, within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory (commission chemist) as reported by the stewards. Minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory.

ITEM 11. Amend subrule **10.5(1)**, paragraph "**a**," sub paragraph (2) as follows:

(2) Preventing the administration of any drug, medication, or other prohibited substance that may cause a violation of these rules. An "In-Today" sign must be placed next to the stall of a horse that is scheduled to race on that day by 8:00 a.m. on race day. Horses shipping in on race day must place the tag upon arrival. The "In-Today" sign may be taken down once the horse leaves for the paddock to race.

ITEM 12. Amend subrule **10.6(2)** by adding a new paragraph "**n**," as follows:

n. Iowa-foaled horse. An Iowa-foaled horse may enter an Iowa bred race without having the official Jockey Club registration papers stamped, but shall not compete in a race limited to Iowa-foaled horses unless the horse is registered with and papers are stamped by the department of agriculture and land stewardship. An Iowa-foaled horse would be allowed to run in an open race without the stamp, but would be ineligible for Iowa bred supplement, Iowa bred breeders' awards and Iowa bred breeders supplement.

ITEM 13. Rescind subrule **10.6(18)**, paragraph "**a**," subparagraph (2), and insert the following **new** subparagraph (2):

(2) Number of claims.

1. An ownership entity (sole owner, partnership or limited liability partnership, racing stable, corporation or limited liability corporation, or owner/trainer acting as an owner), shall not claim more than one horse in a race, and an authorized agent or trainer acting on behalf of an ownership entity shall not submit more than two claims in a race with two separate ownership interests.

2. If an authorized agent or trainer acting on behalf of an ownership entity submits two claims in a race, the claims shall not be for the same horse.

3. A trainer shall not receive more than two horses from any claiming race.

ITEM 14. Amend subrule **10.6(18)**, paragraph “g,” subparagraph (3) as follows:

(3) The stewards shall void the claim and return the horse to the original owner if:

1. The claimed horse suffers a fatality during the running of the race, dies, or is euthanized before leaving the track.

2. The commission veterinarian, during the veterinarian’s observation of the horse coming off the track or upon its arrival to the test barn, determines the horse will be placed on the veterinarian’s list as ~~unsound or~~ lame. The stewards shall not void the claim if, prior to the race in which the horse is claimed, the claimant elects to claim the horse regardless of whether the commission veterinarian determines the horse will be placed on the veterinarian’s list as ~~unsound or~~ lame. An election made under this rule shall be entered on the claim form.

3. The race is called off, canceled, or declared no contest.

ITEM 15. Amend the following definitions in rule **491-11.1**:

“*Independent financial institution*” means a bank approved to do business in the State of Iowa or an insurance company admitted to transact insurance in the State of Iowa with an A.M. Best Insurance rating of A or other equivalent rating.

“*Reserve*” means an account with an independent financial institution or brokerage firm consisting of cash, and qualified investment, or other secure funding method approved by the administrator used to satisfy periodic payments of prizes.

ITEM 16. Amend rule **491 11.7(9)** by adding the following **new** subrule:

11.7(9) Pre-Verified Cards. Cards that are verified prior to arrival at the facility may be approved by the administrator for use in table games authorized by this rule. Pre-verified cards may be shuffled or sequenced according to the licensee’s specifications. Each manufacturer of pre-verified cards shall request approval of their cards, pursuant to 11.4(1), and subject to the following additional requirements:

a. Each device used to verify or automate the randomization of the cards prior to shipping to a licensee shall be certified by a commission designated independent testing facility.

b. The manufacturer shall develop and submit a process to the administrator for producing, shuffling, and packaging pre-verified cards that includes the following:

(1) A visual inspection of the backs of each card, ensuring the cards are not flawed or marked in any way that might compromise the integrity of the gambling game.

(2) A verification that each package of cards contains the correct number of suits and cards in accordance with the Commission approved rules of the game for the game which the package of cards is intended for use with.

(3) Insert the cards in a package with a tamper-evident seal that bears conspicuous indication if the package has been opened. The exterior of the package shall indicate:

1. The total number of decks contained within the package.
2. The Commission-authorized game the cards are intended for use with.
3. The color of the cards within the package.

(4) Generation of a receipt in the package or a label on the sealed package to include the following information:

1. The total number of cards and decks contained within the package.
2. The date and time the cards were shuffled, verified and packaged.
3. Information sufficient to determine the specific details regarding any persons or devices involved in the production, verification or packaging of the cards.

ITEM 17. Rescind paragraph **491-11.12(8)“j”** and adopt the following **new** paragraph in lieu thereof:

j. The provider shall comply with the following:

(1) A reserve shall be established and maintained by the provider in an amount of not less than the sum of the following amounts:

1. The present value of the amount currently reflected on the jackpot meters of the multilink.

2. The present value of one additional reset (start amount) of the multilink.

(2) For system jackpots disbursed in periodic payments, a provider shall fund the periodic payments within 90 days of the notice of the jackpot award with:

1. Purchase of a qualified investment. A copy of such qualified investment shall be provided to the administrator within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment and shall have a maturity date prior to the date the periodic jackpot payment is required to be made; or

2. An irrevocable surety bond or an irrevocable letter of credit with an independent financial institution which provides periodic payments to a winner should the establishment

default for any reason. The written agreement establishing an irrevocable surety bond or irrevocable letter of credit shall be submitted to the administrator within 30 days of purchase; or

3. An irrevocable trust with an independent financial institution in accordance with a written trust agreement approved by the administrator which provides periodic payments from an un-allocated pool of assets to a group of winners which shall expressly prohibit the winner from encumbering, assigning or otherwise transferring in any way his right to receive the deferred portion of the winnings except to their estate. The assets of the trust shall consist of federal government securities including but not limited to treasury bills, treasury bonds, savings bonds or other federally guaranteed securities in an amount sufficient to meet the periodic payments as required; or

4. Another irrevocable method of providing the periodic payments to a winning player consistent with the purpose of this subparagraph, and which is approved by the administrator prior to implementation.(3) The provider shall not be permitted to sell, trade, or otherwise dispose of any periodic payment funding unless approval to do so is first obtained from the administrator.

(4) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph 11.12(8)“j”(1) above, or in the event of nonpayment of a periodic payment directly by the provider, the provider must immediately notify the administrator. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the provider to be unable to fulfill, or which may otherwise impair the provider’s ability to satisfy, the provider’s jackpot payment obligations.

(5) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under subparagraph 11.12(8)“j”(1) above. The calculation shall come

with a certification of financial compliance signed by a duly authorized financial officer of the provider, on a form prescribed by the administrator, validating the calculation.

(6) On an annual basis, the provider must deliver to the administrator updated information sufficient to determine compliance with the funding requirements of all outstanding periodic payments. This shall include an updated listing of all winners showing outstanding periodic payment amounts and any updates to funding documents and agreements. The updated information shall come with a certification of compliance signed by a duly authorized financial officer of the provider.

(7) The reserve required under subparagraph 11.12(8)“j”(1) must be examined by an independent certified public accountant according to procedures approved by the administrator. Two copies of the report must be submitted to the administrator within 90 days after the conclusion of the provider’s fiscal year.

(8) The administrator may require additional information or audits at any time to ensure compliance with this paragraph.

ITEM 18. Amend subrule **12.3(1)** by adding the following new paragraph “g”:

g. Pre-verified card control, for use with cards approved pursuant with 11.7(9).

Controls shall be designed to document:

(1) Procedure governing inspection of the packaging when the cards are put into use on a live table game, including verification of the tamper-evident seal and review of the manufacturer generated receipt for relevant details.

(2) Procedure for employee breaking the tamper-evident seal to sign the receipt with name, time the package is being placed in use and specific table where the package is being used.

(3) Procedure to retain the receipt and the details of use.

(4) Any additional procedures that will be used to verify or randomize pre-verified cards prior to play.